REMARKS

Summary of the Office Action

Claims 21-22, 24-26, 33, and 36-39 have been rejected under 35 U.S.C. 102(b) as allegedly anticipated by U.S. Patent No. 5,649,959 to Hannam et al. ("*Hannam*").

Claims 21-26, 31-32, and 37-40 have been rejected under 35 U.S.C. 102(b) as allegedly anticipated by U.S. Patent No. 5,545,178 to Kensey et al. ("*Kensey*").

Claims 34-35 have been rejected under 35 U.S.C. 103(a) as allegedly obvious over *Kensey* in view of U.S. Patent No. 6,391,037 to Greenhalgh ("*Greenhalgh*").

Response to the Office Action

Claims 21-40 are pending in the application, of which claims 27-30 have been withdrawn from consideration. Claims 21-26 and 31-40 are currently amended. Therefore, upon entry of the present amendment, claims 21-26 and 31-40 will be subject to examination.

A. The Rejections under 35 U.S.C. 102(b)

The claims in the application, as currently amended, are not anticipated by the *Hannam* or *Kensey* references because neither reference discloses each and every element of the amended claims. For example, neither *Hannam* nor *Kensey* discloses "a housing comprising an outer tube and an inner tube, the inner tube having a lumen in flow communication with the puncture tract and the vessel, the inner tube further having a plurality of openings in fluid communication with the outer tube, a volume of blood provided in the lumen being mixable with a blood congealing agent provided to the volume of blood."

Hannam discloses an assembly for sealing an opening in the wall of a living vessel that includes a flexible plunger translating within a sheath inserted into the vessel. The flexible plunger first pushes an anchor member into the vessel and the plunger is successively replaced by a double-lumen syringe, which injects a gelatinous material into the puncture tract while the sheath is being withdrawn form the same tract. The gelatinous material consists of a bioabsorbable and preferably hemostatic material, for example, a fibrin glue that is cured with the addition of a curing agent.

Therefore, *Hannam* does not teach or suggest that the housing includes an inner tube and an outer tube in flow communication through a plurality of openings, nor a device configured to have blood from the patient mixed with a congealing agent inside the device. In particular, *Hannam*'s device has a single lumen and is structured to avoid the penetration of the patient's blood into the device, teaching away from having the patient's blood enter the syringe: "The anchor member **30** functions to ensure that none of the gelatinous material **52** enters the artery and also to ensure that the gelatinous material **52** has an opportunity to cure without substantial amounts of blood or other fluids immediately diluting the fibrin or thrombin materials." *Hannam*, Col. 12, lines 52-46.

Kensey discloses a system and a method for sealing a percutaneous puncture in living vessel and in the neighboring tissue by using a trocar that inserts an anchoring member into the vessel and that also inserts an optional sealing member into the neighboring tissue. The anchoring member and the sealing member are eventually stitched into the tissue. The sealing member in *Kensey* "basically comprises a strip of a compressible, resorbable, collagen foam ... [which] includes a thin web or strip of a non-resorbale, e.g. dacron, reinforcing mesh **46** embedded within it." *Kensey*, Col. 8, lines 25-29.

Therefore, *Kinsey* also does not teach or suggest that the housing includes an inner tube and an outer tube in flow communication through a plurality of openings nor a device configured to have blood from the patient mixed with a congealing agent inside the device.

For at least the above described reasons, Applicant's independent claims 1, and the claims depending therefrom, are not anticipated by neither *Hannam* nor *Kensey*. The dependent claims are also not anticipated by *Hannam* nor *Kensey* for the additional limitations contained therein.

B. The 35 U.S.C 103(a) Rejection

Applicant submits that claims 34 and 35 are not obvious in view of *Kensey* and *Greenhalgh*, because *Kensey* does not teach Applicant's invention and because *Greenhalgh* fails to correct the deficiencies of *Kensey*.

Kensey has been discussed in the preceding section. *Greenhalgh* has been cited by the Examiner for disclosing a platinum and thermo-resistive wire. Therefore, *Greenhalgh* does not teach the missing elements of *Kensey*, such as the use of an inner tube and an outer tube, nor

a device configured for having the patient's blood admixed with a congealing agent for forming an autologous plug.

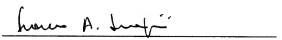
At least for these reasons, the withdrawal of the rejection of claims 34-35 under 35 U.S.C. 103(a) is respectfully requested.

Conclusion

In view of the foregoing remarks, Applicant respectfully requests entry of the present amendment and the timely allowance of the pending claims.

Dated: July 10, 2007

Respectfully submitted,



Franco A. Serafini
Reg. No. 52,207
Attorney for Applicant

LUCE, FORWARD, HAMILTON & SCRIPPS, LLP
11988 El Camino Real, Ste 200
San Diego, California 92130
Tel.: (858) 720-6368
Fax: (858) 523-4314

701003372.1